

JFW

CERTIFICATE OF MAILING
I hereby certify that on 8/19/04 this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☒ 37 C.F.R. § 1.8(a)
with sufficient postage
as first class mail

☐ 37 C.F.R. § 1.10
as "Express Mail Post Office to Addressee"
Mailing Label No. _____

Margaret M. Hasson

PATENT
Attorney Docket No.: 51309-00001 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Naidu et al.

Serial No.: 10/672,668

Filed: September 26, 2003

Title: PREBIOTIC AND PRESERVATIVE USES
OF OIL-EMULSIFIED PROBIOTIC
ENCAPSULATIONS

Conf. No.: 2633

Examiner: Unknown

Art Unit: 1651

**INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. §§ 1.56, 1.97 AND 1.98**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In compliance with the duty of disclosure under 37 C.F.R. §§ 1.56, 1.97 and 1.98, and in accordance with the provisions in the Manual of Patent Examining Procedure §§609 and 707.05(b), enclosed is a copy of the substitute for FORM PTO-1449 listing the references that are known to applicant. Applicants enclose copies of each of the listed references which are not U.S. patents.

This art is being filed for consideration in compliance with § 1.97 within the following time period:

37 C.F.R. § 1.97 (b) This information disclosure statement is being filed by the applicant for consideration and entry before the mailing of a first office action on the merits.

The submission of the above-described documents does not constitute an admission nor should it be construed as a representation that a search has been made, construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in § 1.56(b).

Applicant reserves the right to antedate or otherwise remove the documents as references.

It is respectfully requested that the listed references be considered in the examination of this application and identified on the list of references cited on the patent issuing for this application. Applicant also requests that an initialed copy of the substitute for FORM PTO-1449 be entered in the application file and returned to applicant with the next communication from the Office in accordance with MPEP § 609.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application. Applicant believes that no fee is due with this communication; however, if the Commissioner deems a fee is due, the Director is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 50-3207 associated with this response.

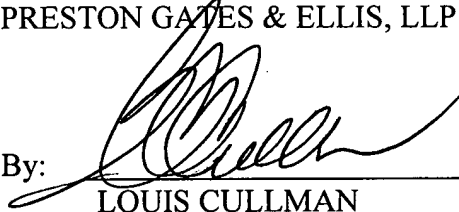
Respectfully submitted,

PRESTON GATES & ELLIS, LLP

Date

8/9/04

By:


LOUIS CULLMAN
Attorney for Applicant
Registration No. 39,645

Contact information below for inquiries regarding the above submission:

Customer Number 45,200
Louis C. Cullman
Preston Gates Ellis LLP
1900 Main Street, Suite 600
Irvine, California 92614-7319
(949) 253-0900 Telephone
(949) 253-0902 Fax

Enclosures: PTO-1440 and Non-US patent references cited thereon, Transmittal



PTO/SB/21 (02-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

| | | | |
|--|---|------------------------|--------------------------|
| Total Number of Pages in This Submission | 4 | Application Number | 10/672,668 |
| | | Filing Date | September 26, 2003 |
| | | First Named Inventor | A. Satyanarayan Naidu |
| | | Art Unit | 1651 |
| | | Examiner Name | Unknown |
| | | Attorney Docket Number | 51309-00001US (14381-15) |

ENCLOSURES (Check all that apply)

| | | |
|---|---|---|
| <input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please Identify below): Non-US Patent References listed on substitute for PTO-1449 |
| Remarks | | |

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | |
|-------------------------|--|
| Firm or Individual name | Louis C. Cullman Preston Gates & Ellis, LLP Reg. No.: 39,645 |
| Signature | |
| Date | 8/9/04 |

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

| | | | |
|-----------------------|--------------------|------|-----------------|
| Typed or printed name | Margaret M. Hasson | | |
| Signature | | Date | 8/18/04 8/19/04 |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet 2 of 2

| | |
|------------------------|-----------------------|
| Application Number | 10/672,668 |
| Filing Date | September 6, 2003 |
| First Named Inventor | A. Satyanarayan Naidu |
| Group Art Unit | 1651 |
| Examiner Name | Unknown |
| Attorney Docket Number | 51309-00001US |

OTHER DOCUMENTS

| EXAMINER INITIALS | Include name of the author (in CAPITAL LETTERS), title of the article, title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. |
|-------------------|--|
| | Conway, "Selection criteria for probiotic microorganisms," Asia Pacific J Clin Nutr, 5:10-14 (1996) |
| | Fuller et al., "Modification of the intestinal microflora using probiotics and prebiotics," Scand J Gastroenterol Suppl, 222:28-31 (1997) |
| | Gibson et al., "Dietary modulation of the human colonic microbiota - Introducing the concept of prebiotics," J Nutr, 125:1401-12 (1995) |
| | Gibson et al., "Probiotics and intestinal infections, in Probiotics 2 - Applications and practical aspects," Edited by R Fuller. London, UK, Chapman and Hall, pp.10-31 (1997) |
| | Greene et al., "Factors Involved in Adherence of Lactobacilli to Human CACO-2 Cells," Applied and Environmental Microbiology, 60:4487-94 (12/1994) |
| | Havenaar et al. "Selection of strains for probiotic use, in Probiotics, the scientific basis," Edited by R Fuller. London, UK, Chapman and Hall, pp. 209-24 (1992) |
| | Mitsuoka, T., "Taxonomy and Ecology of Bifidobacteria," Bifidobacteria Microflora, 3:11-28 (1984) |
| | Naidu et al., "Probiotic spectra of lactic acid bacteria (LAB)," Crit Rev Food Sci Nutr 39:13-126 (1999); 39:3-126. |
| | Naidu et al., "Probiotics, in Natural Food Antimicrobial Systems," Edited by AS Naidu. Boca Raton, FL, CRC Press, pp.431-62 (2000) |
| | Naidu et al., "Reduction of sulfide, ammonia compounds and adhesion properties of Lactobacillus casei strain KE99 in vitro," Curr Microbiol, 44:196-205 (2002) |
| | Ouwehand et al., "Adhesion of Inactivated Probiotic Strains to Intestinal Mucus," Letters in Applied Microbiology, 31:82-6 (6/2000) |
| | Roberfroid, "Health benefits of non-digestible oligosaccharides," Adv Exp Med Biol, 427:211-9 (1997) |
| | Salminen et al., "Clinical uses of probiotics for stabilizing the gut mucosal barrier: successful strains and future challenges," Antonie Van Leeuwenhoek, 70:347-58 (1996) |
| | Tumola et al., "The Effect of Probiotic Bacteria on the Adhesion of Pathogens to Human Intestinal Mucus," Immun. & Med. Microbiology, 36:137-42 (1999) |
| | Tumola, "Addition of Some Probiotic and Dairy Lactobacillus Strains to CACO-2 Cell Cultures," Int'l. J. Food Microb., 41:45-51 (1998) |

| | |
|---|-----------------|
| EXAMINER SIGNATURE | DATE CONSIDERED |
| <p>This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.</p> <p>*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached.</p> | |

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet 1 of 2

| | |
|------------------------|-----------------------|
| Application Number | 10/672,668 |
| Filing Date | September 6, 2003 |
| First Named Inventor | A. Satyanarayan Naidu |
| Group Art Unit | 1651 |
| Examiner Name | Unknown |
| Attorney Docket Number | 51309-00001US |

U.S. PATENT DOCUMENTS

| EXAMINER INITIALS | DOCUMENT NUMBER | ISSUE DATE | PATENTEE | CLASS | SUBCLASS | FILING DATE IF APPROPRIATE |
|-------------------|-----------------|------------|----------------|-------|----------|----------------------------|
| | 3,957,974 | 5/18/96 | Hata | 424 | 93.45 | |
| | 4,210,672 | 07/01/80 | Hata | 426 | 43 | |
| | 4,314,995 | 02/09/82 | Hata et al. | 424 | 93.45 | |
| | 4,345,032 | 8/17/82 | Hata | 435 | 252.9 | |
| | 4,579,734 | 04/01/86 | Hata et al. | 424 | 93.45 | |
| | 4,839,281 | 6/13/89 | Gorbach et al. | 435 | 34 | |
| | 4,871,539 | 10/03/89 | Hata et al. | 424 | 93.3 | |
| | 4,879,238 | 11/07/89 | Hata | 435 | 244 | |
| | 5,032,399 | 07/16/91 | Gorbach et al. | 424 | 93.45 | |
| | 5,705,160 | 01/06/98 | Bruce et al. | 424 | 93.45 | |
| | 5,709,857 | 01/20/98 | Morelli et al. | 424 | 93.45 | |
| | 5,965,128 | 10/12/99 | Doyle et al. | 424 | 93.48 | |
| | 6,060,050 | 05/09/00 | Brown et al. | 424 | 93.3 | |
| | 6,117,477 | 09/12/00 | Paluch | 426 | 623 | |
| | 6,274,564 | 08/14/01 | Sarill et al. | 514 | 52 | |

FOREIGN PATENT DOCUMENTS

| EXAMINER INITIALS | DOCUMENT NUMBER | INTERNATIONAL FILING DATE | COUNTRY OR PATENT OFFICE | CLASS | SUBCLASS | TRANSLATION | |
|-------------------|-----------------|---------------------------|--------------------------|-------|----------|-------------|----|
| | | | | | | YES | NO |
| | PCT/US03/30381 | Mailing Date: 04/28/04 | PCT | | | X | |
| | 2421066 | 03/25/76 | DE | | | | X |
| | 0271364 | 12/14/87 | EP | | | X | |
| | 9301823 | 02/04/93 | WO | | | X | |
| | 9855131 | 12/10/98 | WO | | | X | |

EXAMINER
SIGNATURE

DATE
CONSIDERED

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2. *EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached.